In The Specification:

Delete column 2, line 3-7, column 2, line 53; and column 3, line 3

In the Claims:

Cancel Claim 7

Cancel Claim 9

REMARKS

I. DRAWINGS.

The examiner objected to the submitted corrected drawing because the original disclosure does not support showing the terminal housing as depicted in figure 2 and introduces "new matter" not disclosed in the original disclosure. The Applicant strongly disagrees that the original disclosure does not support a terminal or "housing". The original specification states " ...terminal to include....." numerous times in the original disclosure. **It would be obvious to some one skilled in the art that the words and meanings of "terminal" and "housing" are synonymous as portrayed in the original disclosure.** In, addition the prior art provided, demonstrates this contention. Where else would the components listed in the specification be housed? The Applicant would like to point out to the examiner that in accordance with MPEP guidelines that if an applicant amends or attempts to amend the abstract, specification or drawings of an application, an issue of new matter will arise if the content of the amendment is not described in the application as filed. Stated another way, information contained in any one of the specification, claims or drawings of the application as filed may be added to any other part of the application without introducing new matter." The words "**terminal to**

include....." are well documented in the original specification. The substituted drawing (Attachment 1) is resubmitted for the examiners reconsideration. Respectfully request allowance.

II. The objection to the claims rejection under 35 USC 103.

The claims 1-4 and 6-9 were rejected under 35 USC 103 (a) objected to as being unpatentable over the article entitled "TouchFax provides the Ultimate in Place-based Interactivity" (submitted as Exhibit E in the Touchnet Protest on November 4,1998" in view of the Toch Fax brochure entitled "Vision, Power, Versatility" (submitted as Exhibit F in the TouchNet Protest on November 4, 1998). The applicant respectfully requests that the rejection be withdrawn and an allowance be granted. The applicant provides the following facts to support this request.

"TouchFax provides the Ultimate in Place-based Interactivity" (Exhibit E) Analysis-

The examiner points out that Exhibit E discloses a public on-line, pay-as-you-use communications terminal (first page, fifth paragraph) comprising:

a central processing unit (386 processor, Exhibit E, second page, first column, third paragraph, line 3)

a telephone access node (data port, Exhibit E, second page, first column, third paragraph, line 3)

an internal modem (modem, Exhibit E, second page, first column, third paragraph, line 11)

a video display monitor (touch sensitive monitor; Exhibit E, second page, first column, first paragraph, lines 2-3 of the third paragraph)

a keyboard (full sized keyboard; Exhibit E, second page, first column, third paragraph, line 4-5)

a credit card reader (Exhibit E, second page, first column, Second paragraph, line 3); means for accessing commercial on-line services and allow for user interaction (via touchscreen and computer modem; Exhibit E, second page, second column, second paragraph).

A printer (high volume laser printer;Exhibit E, second page, first column, Third paragraph, line 4)

Specifically; the article does not mention **anywhere** in the brochure that it is a public **on-line** communications terminal capable of accessing the Internet as the examiner contends. That is strictly a strained interpretation by the examiner. The following is the paragraph quote verbatim from the TouchFax Brochure:

"TouchFax hardware products include three models of public terminals used initially as pay-per-use fax machines. They can provide other service such as word processing and high quality copies in addition to its primary capability of phone, fax and computer. Service products include personal fax boxes and information services which may be accessed by TouchFax public terminals and any private fax machines"

The paragraph cited above does not mention connectivity to the Internet nor anything about being an on-line communications terminal. The article goes on to state the capabilities of each of the three terminals (page two, column one, paragraph 3). The following is the paragraph cited by the examiner for most of the rejections (verbatim).

"The TF750 is a free-standing kiosk with high resolution, 14 inch screen, touch screen monitor, 386 processor, high volume laser printer and data port. The TF 450 is a built in, wall-mounted unit that has an optional floor mount and offers data ports for modem and laptop connections on an optional basis. The TF 200 is a built-in , wall mounted unit that offers laser printer as an upgraded feature.

A simple analysis of the paragraph and it should be self-evident that these terminals do not access the Internet on a pay-as –you –use basis. Furthermore, the only information services that the terminals offer is a database to OAG with a response delivered by FAX (Page two, column 2, paragraph 2, lines 4-10). The other services (special newsletter and information) listed in the article are only obtainable from a touch tone phone and from a home or office (Page two, column 2, paragraph 3 and 4).

The examiner cites the following in the office action as part of the rejection

"a credit card reader (Exhibit E, second page, first column, second paragraph, line 3); means for accessing commercial on-line services and allow for user interaction (via touchscreen and computer modem; Exhibit E, second page, second column, second paragraph)."

The words "**means for accessing commercial on-line services**" has apparently been inserted by the examiner. The Applicant protests the insertion, which modifies the capabilities of the terminals in the article.

"Vision, Power, Versatility Analysis-

The applicant would **again,** Like to point out to the examiner that the brochure does not pass the prior art test. There is no date of publication, nor is there a date when it was put in to circulation. Two critical tests for prior art. Nonetheless, the applicant will address the issues of the TF700 terminal that were not addressed above.

The additional items that the applicant would like to point out on this terminal, is that the capabilities listed are (verbatim): **telephone, send or receive Fax, photocopying, word processing, and access to a growing network of information data bases from the wall street news to international sports scores".**

The applicant's previous comments and Exhibit E explicitly states how the databases are accessed, via a touch-tone phone and "faxed "to the user. **Nothing about accessing the Internet.**

Request that the examiner, in light of the above arguments withdraw the objection. Furthermore, the applicant would like to point out to the examiner that mere fact that the prior art may be modified in the manner suggested by the examiner that it does not make the modification obvious unless the prior art **suggested** the desirability of the modification. The prior art fails to show the desirability of the examiners proposed modification. The applicant would also like to point out that obviousness may not be established using hindsight. It

appears to be the case as demonstrated in the examiners interpretations of the articles (exhibits E and F).

An analysis of the exhibits the that examiners provided as a basis for the rejection would show that none of the cited art provide **all** of the elements of the applicants claims (**specifically, a pay-as-you-use terminal to access the Internet**). Substantially modifying the references is not suggested by the references themselves, nor has the examiner presented a prima facie case to explain why someone skilled in the art would have made such changes to the prior devices referenced.

The applicant feels that the arguments provided above adequately address the rejections as they relate to exhibits E and F and should require reconsideration by the examiner.

The following argument address "the shah" article and the examiners "combining of prior art references".

Again, the applicant would like to point out that the article **does not pass the prior art test**. The article is dated 30 April 1994, but there is no mention of **when it was posted on the WWW or the distribution of the article.** Two critical factors in determining prior art applicability that the Applicant requests that the examiner should reconsider.

Nevertheless, the applicant feels that the examiner has a strained interpretation of the paper. The following specifics are provided for the examiners consideration:

- The examiner cites ".....the shah article teaches the desirability of access to and interaction with the Internet in a kiosk-based information system (pages 1-2, section entitled' The Effectiveness of the World Wide Web as a Kiosk based Information System") via the use of appropriate software (Web browser; page 2, section entitled "The Access Interface, Line 2) to provide users access to many services on the Internet including a paid service by commercial organizations which charges customers for access to the specific services (page 2 section entitled " Who will use these systems?" and page5 lines 11-12).
- The examiner clearly has a strained interpretation of "the Shah" article. The applicant protests the examiner addition of materiel and modification of the material that is not explicitly stated in the article.
- Specifically, an analysis of the paragraph that the examiner references above (The Effectiveness of the World Wide Web as a Kiosk based Information system, page 1-2). The reference simply describes the World Wide Web and its capabilities. The examiner references "to provide users access to many services on the Internet including a paid service by commercial organizations which charges customers for access to the specific services (page 2 section entitled " Who will use these systems?" and page5 lines 11-12)." But the words the examiner uses are not verbatim from the article and have been modified to relay the examiner wishes. This is inappropriate. It is not with an examiners purview to "add words" and modify the intent of prior art. Prior art

should stand on its own. Specifically, no where in the article does it state to "which charges customers for access to the specific services."

- The examiner misinterpreted "Commercial Information referral organizations who wish to provide a paid service through such kiosks ("Who will use these systems?" , page5 lines 11-12). It is clear that the intent of this **service** is for an advertiser or an organization that wishes to list something for sale on the kiosk (i.e. Realtor, retailer)
- **No where** in the article does it mention that it is a point-of-sale, pay-as-you-use terminal to access the Internet. Furthermore, in the paragraph, "The Access Interface" pages 2-3 it does not specifically address a credit card swipe nor a telephone access node that is in the applicants claims (nor anywhere in the article). It does mention **network connection**. But, does not talk about connection to the **Internet,** only "a network".

A thorough analysis of the "shah article" that the examiners provided, as a basis for the rejection would show it does not provide **all** of the elements of the applicants claims (specifically, a pay-as-you-use terminal to access the Internet and a telephone node). Substantially modifying the references is not suggested by the references themselves, nor has the examiner presented a prima facie case to explain why someone skilled in the art would have made such changes to the prior devices referenced.

The applicant respectfully submits that the Examiner improperly combined the references. In previous rulings it is stated that, "Obviousness can only be established by combining or modifying the teachings of the prior art to produce

the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. The level of skill in the art cannot be relied upon to provide the suggestion to combine references."

Further rulings state:

"The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination."

"If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious."

The applicant has provided at attachment 2, a statement from the acting Director of Information Management, Fort Leonard Wood, Missouri, Mr. Greg Adank. In this statement, Mr. Adank has provided an independent analysis of the three items of prior art as they relate to the Applicants specification and his conclusions. Mr. Adank has also provided a straight forward matrix in his analysis that crosswalks the elements of the Applicants claims and the prior art cited by the examiner. His conclusions should assist the examiner in a decision to allow the reissue application.

Based on the above response and corrections made to the claims and drawing, Applicant respectfully requests that the rejection be withdrawn and allowance be provided.

The applicant has made a diligent effort to amend the claims of the application so that it is at an allowable state that defines a novel structure, unobvious because it produces new and unexpected results at the time of the application. If for any reason the claims of this amendment and response are not believed to be in condition for allowance, the applicant respectfully requests that constructive assistance and suggestions of the examiner pursuant to MPEP 707 07 (j).

Sincerely,

Richard P. Mettke
Ex parte,

505 Stone Ridge Drive,
Waynesville, MO 65583

Voice:573-336-5726
FAX: 573-336-7093

Email: rmettke@aol.com

FIGURES

Figure 1–

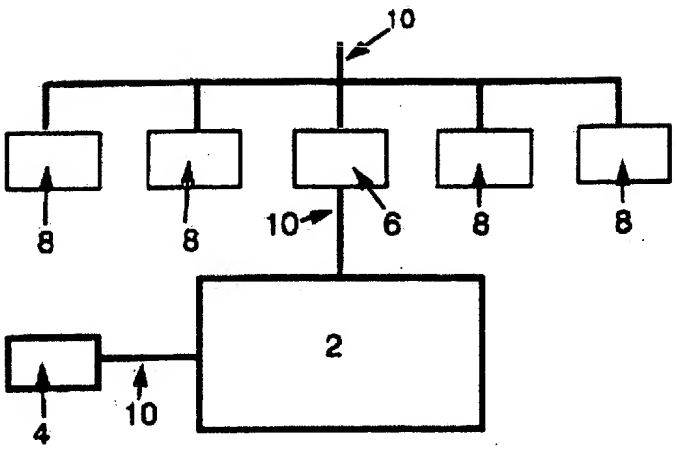
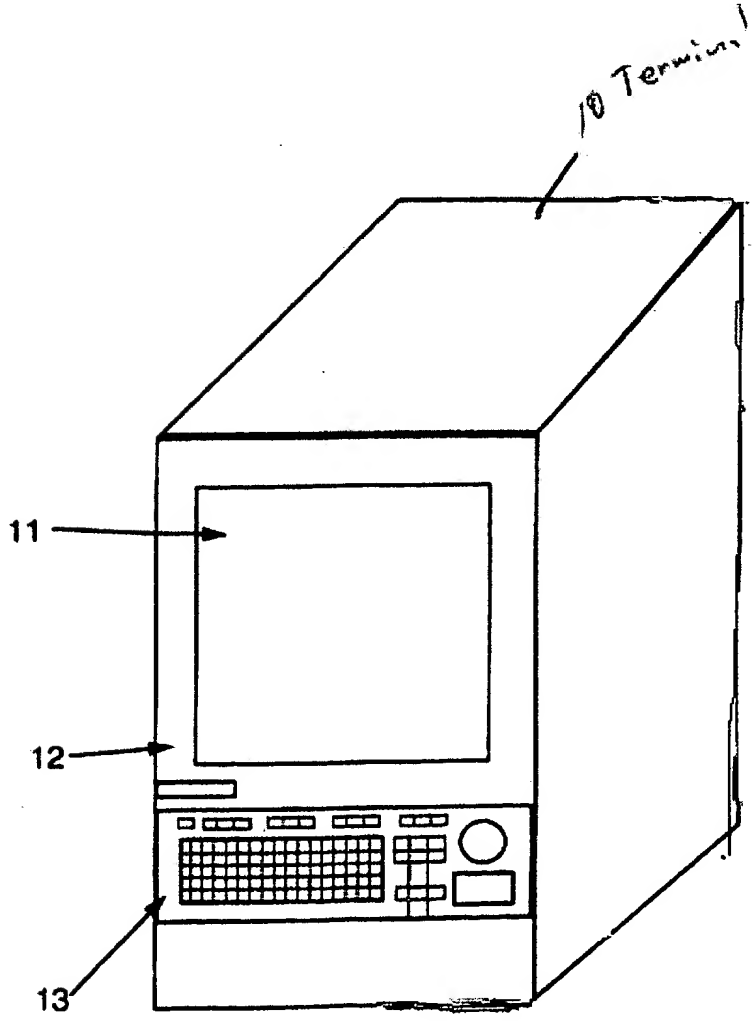


Figure 2–



Attachment 1

Mr. Richard P. Mettke

April 6, 2002

Reference: Patent Number: 5,602,905

Dear Mr. Mettke,

Upon complete review of your original patent application (8/376247) and patent number 5,602,905, reissue amendment filed on DEC 11,2001, and USPTO Office Action dated MAR 12, 2002 (Examiner Woo), I would submit to you the following observations as someone skilled in the art.

General Observations: The patent application articulates well a multitude of automation capabilities that one should considered "commonplace" in 1994. Typical home and business computers (Intel based 286/386 and other compatible class processors) were capable of performing all tasks and features described in your background description of prior art. Specifically, those systems were capable of sending and receiving faxes via internal or external modem, generating electronic documents and printing or faxing them to a remote terminal, communicate with on-line service providers (Prodigy, Compuserve, AOL), as well as be used to communicate on the Internet via Internet service provider (ISP). The ability to couple a credit card reading device to a computer terminal was also common place during this time as many point-of-sale devices (i.e. cash registers) were in fact systems built from the core components found inside a computer terminal.

Understanding and Interpretation: The most straightforward approach to building the terminal device described in your patent is to use and adapt operating systems, hardware, and software that was readily available. With commercial off the shelf (COTS) hardware and software available in 1994 and the details given in the referenced patent I submit the following comments with regard to the feasibility of building such a terminal device.

Attachment 2

1. The Microsoft Windows 3.1 operating system was released April, 1992 and was the most popular computer operating system on the market in 1994. Windows NT 3.1 was released August 1993. Either operating system could fully support the functionality needed to enable a computer terminal as described in your patent.
2. The ability to print information generated by or downloaded to the computer terminal is a common capability for such a device described in the patent. Operating systems identified in #1 above support a wide variety of laser quality printers, there is no particular challenge to make this feature work.
3. Given that the terminal device must communicate with on-line service providers, Internet service providers, and have the ability to send/receive faxes, it would be highly desirable to have a high-speed internal modem in the terminal. Such devices were readily available and could perform all communications tasks as defined in the patent.
4. Assuming that a Fax/Modem device is installed in the terminal I would point out that the software, which typically accompanies such devices, would fully enable the terminal to perform dial-up connections to on-line services, Internet services, and send/receive electronic faxes.
5. Microsoft Office was release in January 1990 and would provide an array of office automation capabilities on the terminal. Since your patent only identifies word processing I would select the Microsoft Word application, which was available as a separate software package, to provide word processing capabilities at the terminal device.
6. In order for the computer terminal to access on-line service providers (Prodigy, Compuserve, AOL) specialized software would be needed. It was, and still is, commonplace for such service providers to distribute dial-up software free of charge to customers that subscribe to their service. The computer terminal would need one copy of each on-line provider's access software package to properly communicate with their host network. In my experience it was commonplace for multiple on-line provider software packages to reside on a single computer terminal and would not present itself as a technical challenge to configure.

7. The computer terminal would also require specialized software to dial-up and obtain network connectivity from an ISP. As described in your patent this capability would enable the terminal user to send and receive email and locate information available on the Internet. Windows 3.1 and NT 3.1, along with the Internet Explorer web browser (which is part of the operating system) has sufficient dial on demand capabilities to support the task of providing ISP based services.

Review of Figures: The functional operation of this proposed terminal device is clearly illustrated in figure 1. It illustrates relationships between the general telephone switching network, on-line service providers, Internet service provider, and the computer terminal device. It further illustrates the functional relationship between the terminal device and a credit card service provider. As figure 1 illustrates, the computer terminal device may require a single plain old telephone system (POTS) circuit to perform credit card validation, dial-up access to on-line and Internet services, and send/receive faxes.

Figure 2 illustrates a physical layout of the computer terminal and cubical or privacy booth that would contain the device(s) identified in figure 1. What is not apparent in either figure, but what I perceive is implied in the patent, is that a housing would be used to store the computer terminal, input/output apparatus, and credit card swiping device. It would be highly desirable to centralize such components in a single enclosure and limit access to the devices through a customer service opening in the front, and a lockable access panel to protect and secure components from tampering and/or theft. Such enclosures were readily available on the market and are frequently used in manufacturing plants, assembly line operations, and in other environments where delicate devices must be protect from damage due to impact, natural elements, and/or vandalism. The computer terminal as described in the patent would easily fit within a single housing and does not present itself as a technical challenge.

Evaluations of Exhibits: The following table identifies the features and capabilities listed in or implied within each of the exhibits and the Mettke patent. Upon close

evaluation it is my opinion that none of the three exhibits provide at least the same services as described in the patent or reissue application. The TouchFax exhibits clearly provide a customer with advanced fax, copier, word processing, and proprietary database access to selected information. However, that system does not provide access to existing on-line service providers (i.e. Prodigy, Compuserve, AOL), nor does it suggest that the TouchFax devices have the capacity to offer direct Internet access through an ISP.

The Shah article provides a framework for building information kiosk system using the World Wide Web as it's primary communication and information infrastructure. While it lists and recommends much of the same equipment identified in the patent it clearly does not mention nor imply that such kiosk devices should offer customers access to existing on-line service providers, or the Internet on a point-of-sale basis, or provide pay-per-use send/receive fax service. The Shah article makes no mention of a credit card swipe reader. The following matrix identifies the similarities and differences in capabilities as stated and implied within each exhibit, the patent, and reissue patent.

Feature	Exhibit E TouchFax	Exhibit F TouchFax	Exhibit I "Shaw" Article	Mettke Patent	Mettke Reissue Patent
Access to Internet services			x	x	x
Access to on-line Services				x	
Advertisements and promotions	x	x	x		
Credit Card Reader	x	x		x	x
Data Ports	x	x			
Electronic Library	x	x			
Fax Mail Box Service	x				
Flat Bed Scanner Device	x	x			
High Quality Copier	x	x			
Keyboard	x	x	x	x	x
Laser Printer		x	x	x	x
Light-pen, stylus, keypad			x		
Multi-language support			x		
Network Connection Hardware			x		
Pay-per-use	x	(implied)	x	x	x
Phone	x	x			
Printed Receipt	x			x	x
Remote System Management		x	x		
Send/Receive Fax Services	x	x		x	x
Sound system			x		
Touch Fax Information Service	x	x			
Touch Net		x			
Touch Screen Monitor	x	x	x	x	x
Web Browser			x	(implied)	(implied)
Word Processing	x	x		x	x
See Footnotes:	1,2	3	4	5	

1. Makes vague reference to providing "...related services that relate to the type of people that frequent a particular type of location"

2. Electronic library produces "fax" output only, and on topics made available via proprietary databases (I.e. OAG Flight Fax for flight information)

3. On the bottom of page two, right hand corner, a vague comment is made to the product providing access to "...a universe of information available from On-line computer and fax information services." The nature of this advertisement implies that the on-line services provided are those available through a proprietary library service that the fax device will interact with and produce output from.

4. Makes no mention of kiosks that can access existing on-line service providers or their information (I.e. Prodigy, Compuserve, AOL) or the Internet

5. On-line services are defined in the patent as commercial services such as Prodigy, Compuserve and AOL.

Conclusion: Having reviewing the referenced patent and three exhibits I have formed the following professional opinions:

1. Having read and understood information provided in patent 5,602,905 and the reissue amendment it is my firm belief that the pay-per-use fax service, ability to access on-line service providers, and ability to access information on the Internet via ISP is feasible and defined sufficiently enough as to allow someone skilled in the art to build and deploy such a device.
2. Exhibits E and F clearly communicate that their primary capabilities are to provide word processing, copier, and fax services to the patron. These devices have the ability to interact with and retrieve information from a proprietary database, but only to the extent that the service provider has anticipated the needs of their customers and pre-loaded the information as to make it available. These devices clearly lack the ability to communicate or interact with data stores generally found on the Internet through an ISP. Neither do TouchFax devices allow access to existing on-line services, such as Prodigy, Compuserve and AOL or the Internet.
3. The Shah article provides a framework for building information kiosk system using the World Wide Web as it's primary communication and information infrastructure, however it does not state nor imply such devices should offer access to existing on-line service providers, the Internet, or a send/receive fax service on a point-of-sale basis.

Personal Background and Credentials: I currently work for the United States Government in the capacity of Acting Directory, Information Management, at Fort Leonard Wood, Missouri 65473. Specific duties and technical skills include Network/System administrator of a 5000 node Campus Area Network composed of Windows and Unix based servers and desktop computers. Programmer, develops software applications using multiple high-level interpreted and compiled languages.

Adjunct Faculty member of Columbia College, Fort Leonard Wood Extended Studies Division, teaching numerous programming, software engineering, networking and data communications courses in the Computer Information Systems and Math department. Owner, VagaTech networking and Internet solution provider business operating in Waynesville, Missouri 65583. Education: Masters degree in Information Resource Management from Webster University, St. Louis Missouri, and an undergraduate degree in Computer Information Systems from Columbia College, Columbia Missouri. Contact Information: I can be reached via email: greg@vagatech.com, phone: (573) 774-2544, or U.S. mail: 22740 Rose Meadow Lane, Waynesville, MO 65583

Gregory W. Adank